

KEVIN SIMMONS
P23096, C2-124, CSP
BOX-4610
LANCASTER CA. 93539
ACTING IN PRO PER

FILED	
CLERK, U.S. DISTRICT COURT	
04/26/2016	
CENTRAL DISTRICT OF CALIFORNIA	
BY: <u>AP</u>	DEPUTY

LP

UNITED STATES District
Court CENTRAL District of CALIFORNIA

2:16-cv-02858-R(KES)

KEVIN SIMMONS
Plaintiff

V.

G. ARNETT, et al.,
Defendants

CASE No. _____
CIVIL RIGHTS COMPLAINT
PURSUANT TO 42 U.S.C. § 1983
FOR EXCESSIVE USE OF FORCE
RACIAL PROFILING, AND A
GROUP COVER UP OF THE USE
OF EXCESSIVE FORCE CAUSING
SERIOUS INJURIES.

A. PREVIOUS LAWSUITS

1. NO. This is Plaintiff's First.

B. EXHAUSTION OF ADMINISTRATIVE REMEDIES

1. The Plaintiff exhausted his CDCR 602 REMEDIES AS FAR AS THE APPEALS COORDINATOR WOULD ALLOW WITH THEIR OFTEN USED SCREENING TACTICS BEGINNING (DEC. 2013 THRU AUG 2014) 602 TO THIRD LEVEL. Gov. Claims Board, 1-16-14 #G615720, SEE Exhibit-4

C. JURISDICTION

This is a Civil Rights Action under 42 U.S.C. § 1983. And this Court has Jurisdiction under 28 U.S.C. § 1343.8. Plaintiff also invokes the Pendent Jurisdiction of this Court. This Complaint alleges that the Plaintiff's civil rights were violated by the intentionally actions of the Defendants, G. ARNETT, M. LOPEZ, Sgt. ROMO, AND J. SOTO, WARDEN, et al. which actions were directed,

1 AGAINST THE PLAINTIFF IN FC B4-C-SECT UPPER SHOWER.
 2 LOCATED AT LANCASTER STATE PRISON, IN LANCASTER
 3 CALIFORNIA 93534.

4 ON 11-28-13 (CLAIM-I) THE PLAINTIFF ALLEGE THAT EXCESSIVE
 5 FORCE WAS USED ON HIM WHILE HE WAS BEING VICTIMIZE
 6 BY A HISPANIC INMATE TWICE AND A HALF THE SIZE OF THE
 7 PLAINTIFF. THE PLAINTIFF HAD BEEN HIT ON THE RIGHT SIDE
 8 OF HIS HEAD WHICH DAZED HIM.

9 AT THE EXACT TIME DEFENDANT G. ARNETT SHOT THE PLAINTIFF
 10 IN HIS LEFT LEG WHICH CAUSE THE PLAINTIFF TO FALL
 11 TO HIS KNEE'S. WHILE TRYING TO COVER MY HEAD TO
 12 TRY AND AVOID THE PUNCHES THE OVER SIZE INMATE
 13 CONTINUE TO HIT ME IN THE HEAD AND FACE WITH
 14 FORCE.

15 THE PLAINTIFF CONTINUED TO HEAR SHOTS FIRED AND
 16 EACH TIME I FELT THE BULLET HIT MY RIGHT LEG
 17 WHILE ON MY KNEE'S HOLDING THE INMATE AROUND HIS
 18 LEGS PRESSING MY FACE TIGHTLY TO HIS LEGS, I CONTINUE
 19 TO HEAR THE LOUD BANGS AND EACH TIME THE SHOTS WERE
 20 HITTING ME THE LAST ONE HITTING ME IN THE BUTT
 21 ON THE RIGHT SIDE.

22 SEE EXHIBIT 1 & 3

23 CLAIM II, IT WAS CLEARLY SEEN ON 11-28-13 THAT THE PLAINTIFF
 24 WAS THE VICTIM IN THE ACT OF "MUTUAL COMBAT" WHEN ALL
 25 THE HISPANIC BUDDIES WERE CHANTING THROW HIS A---! OFF
 26 THE TIER! AND BEING THE VICTIM ON MY KNEE'S TRYING TO
 27 AVOID NOT TO BE BEATING TO BAD OR EVEN KNOCKED
 28 OUT. I STRONGLY FEEL DISCRIMINATION, ON MY KNEE'S WITH

1 A "shot" Broken Leg, THE MEXICANS shooting for their race
 2 TO throw myself off the tier, and Defendant
 3 G. ARNETT repeatedly fire's His 40mm hitting me the
 4 victim reloading and continue aiming at me
 5 firing and hitting his target each time. Plaintiff
 6 ALLEGED RACIAL PROFILING.

7 BY THE DEFENDANTS INTENTIONALLY with deliberate
 8 INDIFFERENCE FAIL TO completely document all three
 9 shots that were fired from the 40mm WEAPON AND
 10 Hit the Plaintiff ALL THREE TIMES.

11 SEE Exhibit 5

12 PALMDALE MEDICAL CENTER TREATMENT OF SKIN
 13 ASSESSMENT. COMPARED TO THE INCOMPLETE 7219
 14 THE DEFENDANTS POORLY PREPARED, SEE Exhibit 2
 15 LVN M. LOPEZ AND SGT. ROMO.

16 1.) Defendant G. ARNETT WORKS AT CALIFORNIA
 17 STATE PRISON - LOS ANGELES COUNTY, 44750 60th Street West
 18 LANCASTER CA. 93536-7620, CORRECTIONAL OFFICER, THIS
 19 Defendant is sued in his individual and official
 20 CAPACITY.

21 while acting under color of LAW with the duty of
 22 providing a safe living condition for the Plaintiff
 23 AND TO protect the Plaintiff from being assaulted
 24 by other inmates. The Defendant chose to while the
 25 Plaintiff WAS ALREADY BEING ASSAULTED BY A MEXICAN
 26 THREE TIMES HIS SIZE.

27 JOIN IN with EXCESSIVE FORCE AND shot the Plaintiff
 28 THREE TIMES with His 40mm CAUSING SERIOUS INJURY Broken BONES

1 2.) Defendant M. LOPEZ WORKS AT CALIFORNIA STATE
 2 PRISON - LOS ANGELES COUNTY, 44750 60TH STREET WEST, LANCASTER
 3 CA. 93536-7620, LVN, LICENSE VOCATIONAL NURSE, THIS DEFENDANT
 4 IS SUED IN HER INDIVIDUAL AND OFFICIAL CAPACITY, WHILE
 5 ACTING UNDER COLOR OF LAW WITH THE DUTY OF PROVIDING A
 6 PROFESSIONAL LEVEL OF HEALTH CARE.

7 WHICH INCLUDES DOCUMENTING INJURIES FOUND, UNUSUAL OCCURRENCE
 8 USE OF FORCE, MEDICAL REPORTS REPORTED HONESTLY AND NOT
 9 ALTERED FOR ANYONE ALWAYS PROVIDING PROFESSIONAL HEALTH
 10 CARE. THIS HEALTH CARE PROVIDER AN LVN CHOSE TO CHANGE
 11 THE PLAINTIFF STATEMENT OF "NO COMMENT."

12 AND WRITE IN BRIEF STATEMENT OF SUBJECTS WORDS IN WHICH
 13 SGT. ROMO INSTRUCTED HER LOPEZ TO WRITE, TAKING PART
 14 IN COVERING UP THE CIVIL RIGHTS VIOLATION.

15 SEE EXHIBIT 2

16 3.) Defendant SGT. ROMO WORKS AT CALIFORNIA STATE
 17 PRISON - LOS ANGELES COUNTY, 44750 60TH STREET WEST,
 18 LANCASTER CA. 93536-7620 CORRECTIONAL SGT. THIS DEFENDANT
 19 IS SUED IN HIS INDIVIDUAL AND OFFICIAL CAPACITY, WHILE
 20 ACTING UNDER COLOR OF LAW WITH THE DUTY OF SUPERVISION
 21 OVER 25 CORRECTIONAL OFFICERS THE RELEASE OF FIVE BUILDINGS
 22 OF INMATES FOR CHOW, THEN WORK RELEASE,

23 THEN PROVIDING A SAFE ENVIRONMENT FOR YARD AND EXERCISE
 24 AND A DUTY TO PROVIDE A SAFE LIVING CONDITION

25 4.) Defendant SGT. J. SEBOK WORKS AT CALIFORNIA STATE
 26 PRISON - LOS ANGELES COUNTY 44750 60TH STREET WEST LANCASTER, CA
 27 93536-7620 SGT. SEBOK IS SUED IN HIS INDIVIDUAL AND OFFICIAL CAPACITY
 28 WHILE ACTING UNDER OF LAW MADE PERJURED STATEMENT, SEE PLAINTIFFS STATEMENT

SEE EXHIBIT-2

5) Defendant J. Soto, Warden, worked at California State Prison - Los Angeles County 44750 60th Street West, Lancaster CA. 93536-7620 WARDEN This Defendant is sued in his individual and official capacity, while acting under color of law, with the duty of being responsible for the overall operations of the prison and employees and their actions and inactions.

D. Claims

The following civil right has been violated:

First Cause of Action

the plaintiffs fourteenth amendment right to be free of unjustified and excessive use of force was violated when:

a) The plaintiff being the victim of an assault by a Mexican (3) times his size, who asked the plaintiff a question and at the same time sucker punched the plaintiff in the face dazing me, it was like defendant go G. Arnett, was waiting for the punch.

Directly after the Mexican punch me in the face G. Arnett, fired his 40mm hitting me in the left leg breaking my fibula and my tibia, I'm on my knees unable to get to my feet. Trying to cover my face and head from the licks the Mexican is landing upside my head.

A second loud shot sounds off and I feel the hard impact the round hits me in my leg area again, as the Mexican's buddies or home boys are shouting throw his BIK. A--! off the tier, at which time I fell

1 FORWARD WRAPPING MY ARMS AROUND THE MEX.
 2 LEGS SO HE COULDN'T THROW ME OFF THE TIER HE WAS
 3 SURELY LARGE ENOUGH. AND A THIRD ROUND SOUNDS OFF
 4 THIS TIME HITTING ME ON THE RIGHT SIDE OF MY BUTT.
 5 THE MEXICAN IS STANDING OVER ME JUST BEATING ME
 6 I HAVE NO IDEA WHY.

7 AND CLEARLY I'M THE VICTIM BUT DEFENDANT G.
 8 ARNETT, DECIDES TO VIOLATE MY 14TH AMENDMENT RIGHT TO
 9 BE FREE OF UNJUSTIFIED AND EXCESSIVE USE OF FORCE
 10 AND WHILE THE MEXICAN IS BEATING ME WITH HIS
 11 FIST DEFENDANT G. ARNETT, WITH INTENT DELIBERATELY INDIFFE-
 12 RENCE.

13 LOAD AIM HIS 40MM AT THE PLAINTIFF AND USE
 14 THE PLAINTIFF BODY AS TARGET PRACTICE. HITTING THE
 15 PLAINTIFF EACH THREE TIMES HE FIRED THE 40MM WITH
 16 RECKLESS DISREGARD TO THE PLAINTIFFS CIVIL RIGHTS!
 17 AND THE VIOLATION OF SGT. J. SEBOK GOING ALONG
 18 WITH SGT. ROMO WHEN HE HAD LYN M. LOPEZ ALTER
 19 AND DOCUMENT FALSE STATEMENTS.

20 ON THE PLAINTIFFS CDCR 7219 MEDICAL REPORT OF
 21 INJURY OR UNUSUAL OCCURRENCE, ALTERING THE
 22 PLAINTIFF'S STATEMENT OF "NO COMMENT" AND CHANGING
 23 PLAINTIFF STATEMENT TO SAY I HURT MY LEG WHEN I

24 SLIPPED IN WATER. A VIOLATION OF THE NURSING
 25 OATH TO PROVIDE ADEQUATE MEDICAL CARE AND PATIENT
 26 TRUST IN THEIR HEALTH CARE PROVIDER.
 27 SEE EXHIBIT-2

28 VIOLATION OF COVER UP CDCR, TITLE 15, § 3268.1(a)(2) REFLECTING USE OF FORCE

SECOND CAUSE OF ACTION

RACIAL PROFILING WITH ACTS OF DISCRIMINATION. THE DEFENDANT'S ACTS AND OMISSIONS WERE NOT OF ALL INMATES ALL INMATES OF ALL RACES MUST HAVE THE SAME RIGHTS AND TREATED EQUALLY AND TO THE SAME RIGHTS.

AND TREATED EQUALLY AND TO THE FULL AND EQUAL BENEFITS OF ALL PROCEEDINGS, PUNISHMENT, TREATMENTS FOR THE SECURITY OF PERSONS AND PROPERTY AS IS ENJOYED BY WHITE CITIZENS!

VIRTUALLY ALL ACTS OF PRISON OFFICIALS ARE COMMITTED UNDER COLOR OF STATE LAW, IN THE PLAINTIFF'S SITUATION I WAS WALKING THE TIER DOING MY ASSIGN JOB WRITING DOWN CELL NUMBER'S OF INMATES WHO DESIRED A HAIR CUT.

THE INMATE COMING TOWARDS ME WAS MEXICAN.

HE WAS THREE TIME'S MY SIZE AND HIS NOSE WAS BLEEDING. WHEN HE REACHED THE PLAINTIFF HE ASKED DID

I SEE A MEXICAN NAME PUNCHO?

I REPLIED TO HIM I DIDNT WANT TO GET INVOLVED. AT THAT SAME TIME THE MEXICAN SUCKER PUNCHED ME IN THE FACE IT WAS A GOOD LICK IT DAZED ME. IT WAS AS G. ARNETT, SENT THIS MEXICAN TO ASSAULT ME.

BECAUSE LIKE CLOCK WORK AS I ATTEMPT TO REGAIN MY COMPOSURE G. ARNETT, FIRE'S HIS 40MM. HITTING ME, AND SURELY HE SAW THIS MEXICAN HIT ME IN THE FACE RACIALLY PROFILING THE BLK. MAN. HE CHOSE TO SHOT ME IN THE LEG BREAKING IT.

THE MEXICAN'S ON THE BOTTOM TIER MAKING RACIAL STATEMENTS A COUPLE TIME'S USE THE [N] WORD, THE DEFENDANT,

1 G. ARNETT, DECIDE'S TO SHOOT THE PLAINTIFF TWO(2) MORE
 2 TIME'S AND WRITE HIS REPORT THAT WITH INMATE MOVE-
 3 MENT HE COULDN'T TELL IF HE HIT THE PLAINTIFF, ONLY THING
 4 THE PLAINTIFF WAS DIRECTLY ACROSS FROM ARNETT, ON HIS KNEE'S
 5 UNABLE TO MOVE, LIKE SHOOTING AT A DUCK IN SMALL POND.
 6 THE DEFENDANT ORDERED GET DOWN ONE TIME AFTER
 7 HE HAD SHOT THE PLAINTIFF THREE TIME'S, AND RESPONDING
 8 STAFF HAD REACHED THE BUILDING.

9 REQUEST FOR RELIEF

10 THE LOSS OF CONSTITUTIONAL RIGHTS EVEN FOR A
 11 SHORT PERIOD OF TIME SUCH AS FIVE MINUTES
 12 CONSTITUTES IRREPARABLE INJURY IN MORE WAYS THAN
 13 ONE. ELROD V. BURNS, 427 U.S. 347, 373 (1976).

14 DEERFIELD MEDICAL CENTER V. CITY OF DEERFIELD BEACH
 15 661 F.2d 328, 338 (5TH CIR. 1981).

16 THE LOSS OF THE PLAINTIFF 14TH AMENDMENT RIGHT
 17 TO BE FREE OF UNJUSTIFIED AND EXCESSIVE USE OF
 18 FORCE FOR ONLY A FEW MINUTES HAS CAUSED THE
 19 PLAINTIFF TO HAVE TO SUFFER THE REST OF HIS LIFE
 20 OF IRREPARABLE INJURY WHICH REQUIRED RECONSTRUCTIVE
 21 SURGERY AND METAL RODS.

22 PLACED DOWN THE MIDDLE OF BOTH BROKEN BONES TO
 23 KEEP THE BONE'S TOGETHER, NOT TO MENTION THE CONTINUED
 24 PAIN AND SUFFERING AND THE NEED OF USE OF
 25 CANE TO WALK. I BELIEVE THAT I AM ENTITLED TO
 26 THE FOLLOWING RELIEF OF \$1,500,000.00

27 4-22-16

28 Kevin Simmons

DECLARATION

I UNDERSTAND THAT A FALSE STATEMENT OR ANSWER
TO ANY QUESTIONS IN THIS DECLARATION WILL SUBJECT
ME TO PENALTIES FOR PERJURY.

Kevin Simmons

I KEVIN SIMMONS DECLARE UNDER PENALTY OF PERJURY
THAT THE FOREGOING IS TRUE AND CORRECT.

Signed This 22 DAY OF April 2016

Kevin Simmons

EXHIBIT - 1

FINAL COPY OF RVR

☐ EOP ☒ CCCMS ☐ CLEAR

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

RULES VIOLATION REPORT

804 to records on

By:

CDC NUMBER P-23096	INMATE'S NAME SIMMONS	RELEASE/BOARD DATE	DIST. CSP-LAC	HOUSING NO. FCB1-212U	LOG NO. C13-11-0089
VIOLATED RULE NO(S). CCR §3005(d)(1)	SPECIFIC ACTS FIGHTING	LOCATION FCB4, C-SEC.	DATE 11-28-13	TIME 1003	

CIRCUMSTANCES

On November 28, 2013, at approximately 1003 hours, while performing my duties as Facility C building 4 Control Booth Officer, I observed Inmates SIMMONS (P-23096, FCB1-212U) and MURRILLO (T-27042, FCB4-208U) fighting on the C-section upper tier. Both inmates were hitting each other in the face and upper body area with their fists. I immediately notified Central Control over the institutional radio, "Central Control I have a Code 1, two inmates fighting on the C-section top tier." I then activated my personal alarm device and ordered both inmates to stop fighting and get down. Simmons and Murrillo ignored my orders to stop fighting. From approximately 30 feet away in an elevated position I utilized my 40mm launcher (#D23952) loaded with one Direct Exact Impact Sponge Round, aiming at Zone-One of Inmate Simmons' lower left leg. I discharged one round. Due to inmates movement I could not see if the round made contact. I again ordered the inmates to stop fighting. Both inmates ignored my orders to stop fighting. I reloaded my 40mm launcher with one Direct Exact Impact Sponge Round and aiming from approximately 30 feet at Zone-One of Simmons' lower left leg discharged one round. Due to inmates movement I did not see round make contact. I again ordered the inmates to stop fighting. Both inmates ignored my orders and continued fighting. I reloaded my 40mm launcher with one Direct Exact Impact Sponge Round and aiming from approximately 30 feet at Zone-One of Simmons' left leg discharged one round. Again due to inmates movement I did not see round make contact. At this time both inmates complied with my orders, stopped fighting and got down on the floor in a prone position. Responding staff handcuffed both inmates and escorted Murrillo out of the building. Inmate Simmons was carried out of the building on a medical gurney due to a severe injury from fighting to his left ankle.

Inmate SIMMONS is aware of this report.

Inmate SIMMONS is a participant in the Mental Health Services Delivery System at the CCCMS level of care.

REPORTING EMPLOYEE (Typed Name and Signature) G. Argett, Correctional Officer	DATE 11/29/13	ASSIGNMENT C4 Control	ROOM'S F/S
REVIEWING EMPLOYEE (Typed Name and Signature) J. Setok, Correctional Sergeant	DATE 11/29/13	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: D	DATE 12/2/13	HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC

COPIES GIVEN INMATE BEFORE HEARING

<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) [Signature]	DATE 12/2/13	TIME 1800	TITLE OF SUPPLEMENT <input checked="" type="checkbox"/> SUMMARY OF DISCIPLINARY PROCEDURES (115 Back Page) <input type="checkbox"/> SUMMARY OF DISCIPLINARY PROCEDURES AND INMATE RIGHTS (115A Back Page)
<input checked="" type="checkbox"/> INCIDENT REPORT LOG NUMBER: LAC-C04-13-11-0744	BY: (STAFF'S SIGNATURE) [Signature]	DATE 12/10/13	TIME 1800	BY: (STAFF'S SIGNATURE) [Signature]

HEARING Issued copy of 72195 & Compatibility Chrono on 12/2/13 @ 1800 K. Graves

THE STAFF MEMBER ISSUING THE INITIAL COPY SHALL COMPLETE THIS SECTION

Assistance Provided To Ensure Effective Communication:

- ☐ Use of Text Magnifier
☐ Foreign Language Interpreter
☒ Simple English
☐ "S" stated he did not need any assistance for effective communication
- ☐ Read Documents to "S"
☐ Sign Language Interpreter
☐ "S" was wearing his hearing aid(s)

- ☐ Up Reading
☐ Written Notes (see attached noted)
☐ S.A. Assigned

Method Used To Determine Communication Was Effective:

- ☒ "S" reiterated in his own words what was explained
☐ "S" provided appropriate substantive responses to questions asked
☐ Other

- ☐ "S" asked appropriate questions regarding the information provided
☐ "S" did not appear to understand the communication, even though this primary method of communication was used.

SIGNATURE OF EMPLOYEE WHO COMPLETED THIS SECTION [Signature]	PRINTED NAME OF EMPLOYEE K. Graves	DATE SIGNED 12/2/13
---	---------------------------------------	------------------------

(REFER TO RULES VIOLATION REPORT - PART C FOR HEARING PORTION)

REFERRED TO ☐ CLASSIFICATION ☐ BPT/NAEA

ACTION BY: (TYPED NAME) G. Marshall, Correctional Lieutenant (SHO)	SIGNATURE [Signature]	DATE 12/24/13	TIME 1900
REVIEWED BY: (SIGNATURE) M. Nunez, Captain	DATE 12/26/13	CHIEF DISCIPLINARY OFFICER'S SIGNATURE D. Williams, Associate Warden (A)	DATE 12-26-13
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) [Signature]	DATE 12/26/13	TIME 1800

CDC 115 (7/88)

(10)

EXHIBIT 2

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

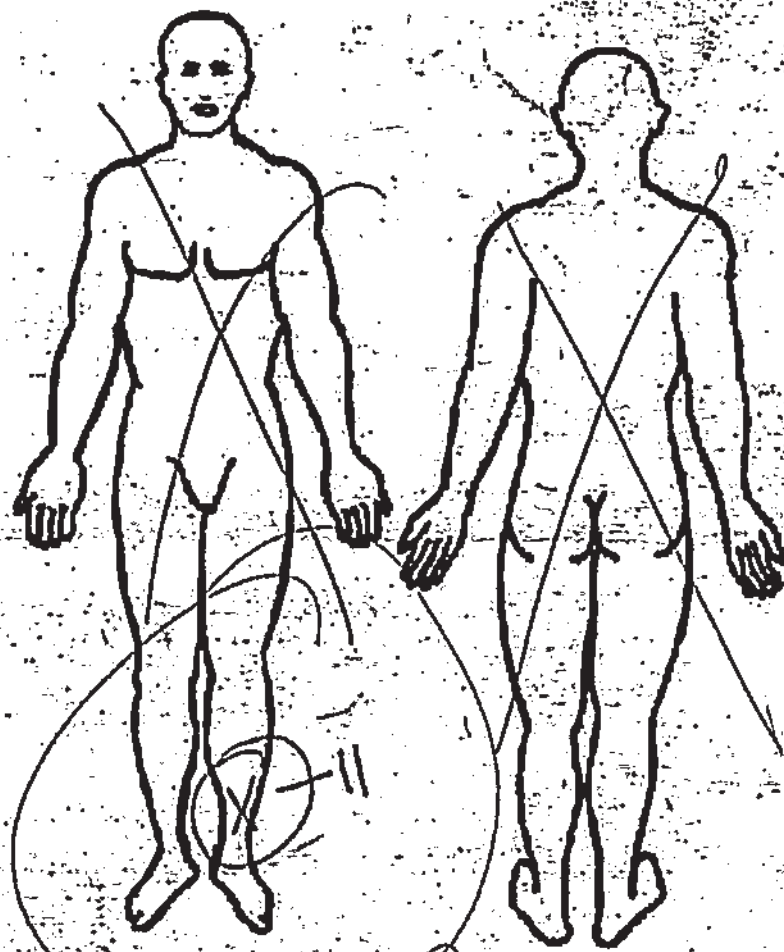
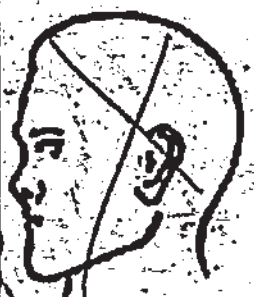
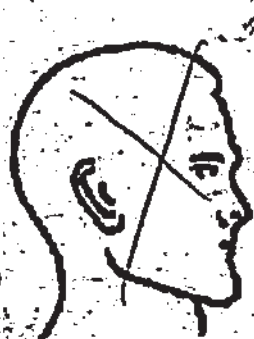
MEDICAL REPORT OF INJURY
OR UNUSUAL OCCURRENCE

NAME OF INSTITUTION CSP-1A	FACILITY/UNIT 1A15	REASON FOR REPORT (circle) USE OF FORCE UNUSUAL OCCURRENCE	INJURY	ON THE JOB INJURY PRE AD/SEG ADMISSION	DATE 11-28-13
THIS SECTION FOR INMATE ONLY	NAME LAST Simmons	FIRST Kevin	CDC NUMBER P23096	HOUSING LOC. 4C12	NEW HOUSING LOC.
THIS SECTION FOR STAFF ONLY	NAME LAST	FIRST	BADGE #	RANK/CLASS	ASSIGNMENT/RDOs
THIS SECTION FOR VISITOR ONLY	NAME LAST	FIRST	MIDDLE	DOB	OCCUPATION
	HOME ADDRESS	CITY	STATE	ZIP	HOME PHONE

PLACE OF OCCURRENCE C1000	DATE/TIME OF OCCURRENCE 11-28-13 1010	NAME OF WITNESS(ES)
TIME NOTIFIED 1010	TIME SEEN 1015	ESCORTED BY DeBntz
	MODE OF ARRIVAL (circle) AMBULATORY ON SITE	LITTER
	WHEELCHAIR	AGE 49
		RACE BLK
		SEX M

BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE
No contact Slipped in water

INJURIES FOUND? YES/NO	
Abrasion/Scratch	1
Active Bleeding	2
Broken Bone	3
Bruise/Discolored Area	4
Burn	5
Dislocation	6
Dried Blood	7
Fresh Tattoo	8
Cut/Laceration/Slash	9
O.C. Spray Area	10
Pain	11
Protrusion	12
Puncture	13
Reddened Area	14
Skin Flap	15
Swollen Area	16
Other	17
	18
	19
O.C. SPRAY EXPOSURE? YES/NO	
DECONTAMINATED? YES/NO	
Self-decontamination instructions given? YES/NO	
Refused decontamination? YES/NO	
Q 15 min. checks	
Staff issued exposure packet? YES/NO	



RN NOTIFIED/TIME 1020 S. R. N	PHYSICIAN NOTIFIED/TIME N/A
TIME/DISPOSITION 1030 to TTA	

REPORT COMPLETED BY/TITLE (PRINT AND SIGN) M Lopez Lnk M. Lopez	BADGE # 216	RDOs 2247 m/T
---	-----------------------	-------------------------

EXHIBIT 3

SKIN ASSESSMENT

PRESSURE ULCERS / RASH / EXCORIATION / SKIN TEARS / OTHER:

Describe: SUPRACAL DSG, COUZE TO PREVENT RASHES, Dth Gyno

I.V. FLUID: None

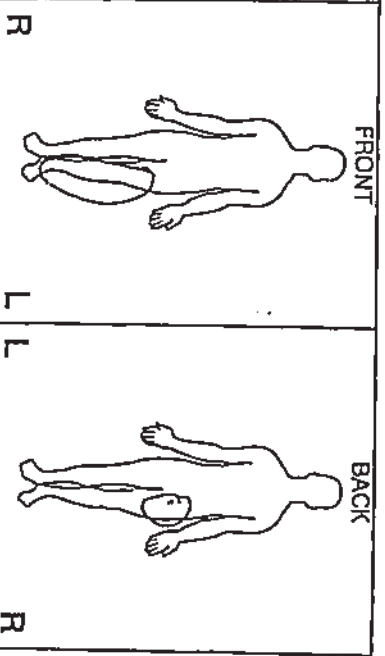
DRESSING CHANGED:

SITE: None

DATE OF LINE / I.V. INSERTION:

PRESCRIPTION

DATE & TIME
LAST DOSE



LOCATE ON CHART ALL PRESSURE ULCERS / RASHES / EXCORIATIONS / SKIN TEARS / G-TUBES / FOLEYSTY'S

12.01.13

DATE

SIGNATURE

RN

PALMDALE REGIONAL
MEDICAL CENTER

PATIENT TRANSFER AND REFERRAL
RECORD

Page 2 of 2

FORM #1542 (1/11)



DC0131

Patient Identification

Vaccines given (if applicable):

Pneumococcal ☐ Yes ☐ NA Date Refuses

Flu ☐ Yes ☐ NA Date Refuses



3005384379-10164342

SIMMONS, KEVIN

DOB: 09/19/1964

49 Y SX: M EMR

MRN: 10164342 ADM/REG DT: 11/28/2013

Palm Dale Regional Medical Center

V. N. A. P. A.

12.01.13

CSP-LAC HC Records - Received

DEC 02 2013

CSP-LAC HC Records - Received

DEC 02 2013 saved 2014-01-07T16:46:57Z

(14)

EXHIBIT 4

STATE OF CALIFORNIA

INMATE/PAROLEE APPEAL FORM ATTACHMENT

CDCR 602-A (08/09)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

TAB USE ONLY	Institution/Parole Region:	Log #:	Category:
	FOR STAFF USE ONLY		

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First): Simmons Kevin	CDC Number: #P-23096	Unit/Cell Number: C-2-124-L	Assignment: Medically U/4/2013
---	--------------------------------	---------------------------------------	--

A. Continuation of CDCR 602, Section A only (Explain your issue):

aimed and shot me with his 40 mm Block Gun Weapon that caused my left leg to break completely in half. Upon me being seen by medical staff I clearly informed Nurse M. Lopez that I had no comments to make about the incident! However, once nurse Lopez realized that Officer Arnett had actually shot me and broke my left leg by using excessive force, she immediately went back and falsified my #7219 Medical Injury Report by falsely writing that I had slipped and fell into some water and hurt my own leg. Nurse Lopez also neglected to identify on my #7219 Injury Report that I had suffered a broken bone. Nevertheless, C/O Arnett clearly admits in his own written report that he specifically aimed and shot my left leg three times which resulted to it being broke in half and requiring emergency reconstructive surgery with metal rods to hold the bone back together. C/O Arnett further admits in his own written report that such fight was a mutual fight without neither inmate being the aggressor over the other. CCR, Title 15, #3268 (a)(3) was clearly violated under CDCR USE OF FORCE POLICY which was attempted to being covered up by both medical staff and custody staff! I was clearly the target of racial profiling by C/O Arnett by his own report!

Inmate/Parolee Signature: Kevin SimmonsDate Submitted: 12-25-13

B. Continuation of CDCR 602, Section B only (Action requested):

Inmate/Parolee Signature: _____

Date Submitted: _____

(17)

RECEIVED
APR 9 2014
INMATE APPEALS BRANCH
MAY 22 2014

RECEIVED
AUG 11 2014
INMATE APPEALS BRANCH

STATE OF CALIFORNIA
 RIGHTS AND RESPONSIBILITY STATEMENT
 CDCR 1858 (Rev. 10/06)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

RIGHTS AND RESPONSIBILITY STATEMENT

The California Department of Corrections and Rehabilitation has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.

Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates'/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

Simmons, Kevin	Kevin Simmons	5-15-14	
COMPLAINANT'S PRINTED NAME	COMPLAINANT'S SIGNATURE	DATE SIGNED	
Simmons, Kevin	Kevin Simmons	P-23096	5-15-14
INMATE/PAROLEE PRINTED NAME	INMATE/PAROLEE'S SIGNATURE	CDC NUMBER	DATE SIGNED
RECEIVING STAFF'S PRINTED NAME	RECEIVING STAFF'S SIGNATURE	DATE SIGNED	

DISTRIBUTION:
 ORIGINAL -
 Public - Institution Head/Parole Administrator
 Inmate/Parolee - Attach to CDC form 602
 Employee - Institution Head/Parole Administrator
 COPY - Complainant

PLEASE TAKE NOTICE THAT STAFF ARE REFUSING TO SIGN THIS FORM.

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : February 10, 2014

To : SIMMONS,P-23096
FCB2- 124L
California State Prison-Los Angeles County

Subject: **STAFF COMPLAINT RESPONSE - APPEAL # LAC-C-14-00023 SECOND LEVEL RESPONSE**

APPEAL ISSUE:

First Level was by passed; you submitted this staff complaint based on the allegation of staff misconduct by Correctional Officer G. Arnett.

DETERMINATION OF ISSUE:

Your allegation of staff misconduct has been reviewed by the hiring Authority. As a result of that review your appeal was referred for an appeal inquiry.

SUMMARY FOR APPEAL INQUIRY:

You were interviewed on February 9, 2014, by Lieutenant I. Mijares. You allege that you were involved in a fight on November 28, 2014, where Correctional Officer G. Arnett used excessive force by firing the 40 mm direct launcher and striking you three (3) times with direct impact rounds causing your left leg to break, requiring emergency reconstructive surgery. You are requesting \$1,500,000 from the California Department of Corrections and Rehabilitation (CDCR) and Officer Arnett. You allege that CDCR is liable for failing to properly to train Officer G. Arnett in the Use of Force that resulted in permanent Great Bodily Injury (GBI) to you.

➤ **An Appeal Inquiry has been conducted and reviewed by the hiring authority.** There were no other interviews conducted. The following information was reviewed: the Inmate Appeal Form LAC-C-14-00023, The 1858 Rights and Responsibility Statement. It is determined that staff did not violate CDCR policy with respect to the issues raised.

FINDINGS:

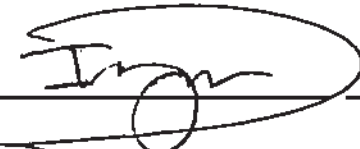

A review of the incident package dated November 28, 2013 Log # LAC-C04-13-11-0744, You were was interview by Sergeant J. Sebok after the fight, you stated to him that he had sustained his injury to his left leg when he slipped on water by the shower during the fight. The CDCR 7219 Medical Report of Injury or Unusual Occurrence revealed that appellant sustained an injury to his left leg. You stated to License Vocational Nurse (LVN) M. Lopez that you had sustained his injury to his left leg while fighting when he slipped on water. On January 8, 2014 the Institutional Executive Review Committee (IERC) conducted a review of the Use of Force incident package, report of findings and the CDCR 7219 Medical Report of Injury or Unusual Occurrence.

SIMMONS P-23096, LAC-C-14-00023
PAGE 2.

The IERC reviewed and determined that Officer G. Arnett actions prior, during and following the use of force were in compliance with policy, procedures, and training. Officer Arnett used of force was reasonable based on the totality of the situation as stated in the incident package. your allegation that Officer Arnett used excessive use of force is not sustained. The \$ 1,500.000 dollars you are requesting is denied; monetary damages are not within the 602 Inmate/Parole Appeal Process.

ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE.

As such, the details of any inquiry or investigation will not be shared with staff, members of the public, or offender appellants. Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process. Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to appeal the decision, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Secretary's Level of Review. Once a decision has been rendered at the Third Level, your administrative remedies will be considered exhausted.

Name	I. Mijares	Signature		Date	3-16-14
	Interviewer				
Name	B. Bingham	Signature		Date	3/20/14
	Hiring Authority				

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
OFFICE OF APPEALS
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

THIRD LEVEL APPEAL DECISION

Date: **OCT 17 2014**

In re: Kevin Simmons, P23096
California State Prison, Los Angeles County
44750 - 60th Street West
Lancaster, CA 93536-7620

TLR Case No.: 1312318

Local Log No.: LAC-14-00023

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner D. Foston, Captain. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that he was the victim of excessive force and racial profiling. The appellant states that on November 28, 2013, he was defending himself from another inmate at which time he was racially profiled by Correctional Officer (CO) G. Arnett. The appellant states CO Arnett shot him on the left leg with his 40mm block gun. The appellant states his leg was broke completely in half because of being shot. He alleges that Nurse Lopez falsified the CDC Form 7219, Medical Report of Injury or Unusual Occurrence, after she realized CO Arnett had shot him and broke his leg. The appellant contends that CO Arnett's own report reflects that he shot the appellant in the left leg three different times. The appellant alleges he was the target of racial profiling and the incident is being covered up by medical and custody staff. The appellant requests "\$1,500,000.00 against CO Arnett and CDCR" for failing to properly train Use of Force.

II SECOND LEVEL'S DECISION: The Second Level of Review (SLR) identified and addressed the appellant's allegations of staff misconduct. The reviewer documented that an appropriate supervisory staff member was assigned to conduct an inquiry into this matter. The inquiry included a review of the evidence and an evaluation of any interview conducted. In order to determine the facts, the inquiry also included a review of pertinent documents, current policies, laws, and procedures. The SLR noted that all staff personnel matters are confidential in nature, and that the appellant would only be notified whether the actions of staff were or were not in compliance with policy. The SLR found that the staff did not violate policy as alleged. The SLR partially granted the appeal in that an inquiry was conducted.

III THIRD LEVEL DECISION: Appeal is denied.

A. FINDINGS: Upon review of the documentation submitted, the Third Level of Review (TLR) finds that the appellant's allegations were appropriately reviewed and evaluated by administrative staff. The TLR notes that all staff personnel matters are confidential in nature and will not be disclosed to other staff, the inmate population, the general public, or the appellant. The appellant was informed that if the conduct of staff was determined to not be in compliance with policy, the institution would take the appropriate course of action. In this case, the SLR informed the appellant that an inquiry was completed and disclosed the determination of the inquiry to the appellant. The TLR reviewed the confidential inquiry and concurs with the determination of the SLR. The TLR notes that, while the appellant has the right to submit an appeal as a staff complaint, requests for: administrative action regarding staff; the placement of documentation in a staff member's personnel file; to reprimand staff; to remove staff from a position; and/or requests for monetary compensation are beyond the scope of the appeals process. The TLR finds the institution's response complies with departmental policy, and the appellant's staff complaint allegations were properly addressed. Therefore, no further relief shall be afforded at the TLR.

B. BASIS FOR THE DECISION:

California Penal Code Section: 832.7, 832.8

California Code of Regulations, Title 15, Section: 3001, 3004, 3005, 3084.1, 3268, 3268.1, 3270, 3271, 3286, 3084.9, 3391

KEVIN SIMMONS, P23096
CASE NO. 1312318
PAGE 2

C. ORDER: No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR. If dissatisfied, the appellant may forward this issue to the California Victims Compensation and Government Claims Board, Government Claims Unit, P.O. Box 3035, Sacramento, CA 95812-3035, for further review.



D. FOSTON, Appeals Examiner
Office of Appeals

cc: Warden, LAC
Appeals Coordinator, LAC



R. L. BRIGGS Chief (A)
Office of Appeals



STATE OF CALIFORNIA
EDMUND G. BROWN JR., Governor

GOVERNMENT CLAIMS PROGRAM
400 R Street, 5th Floor ♦ Sacramento, California 95811
Mailing Address: P.O. Box 3035 ♦ Sacramento, California 95812
Toll Free Telephone Number 1-800-955-0045 ♦ Fax Number: (916) 491-6443
Internet: www.vcgcb.ca.gov

MARYBEL BATJER
Secretary
Government Operations Agency
Chairperson

JOHN CHIANG
State Controller
Board Member

MICHAEL A. RAMOS
San Bernardino County District Attorney
Board Member

JULIE NAUMAN
Executive Officer

Kevin A Simmons P23096
PO Box 4610
Lancaster, CA 93539

January 16, 2014

RE: Claim G615720 for Kevin A Simmons, P23096

Dear Kevin Simmons,

The Victim Compensation and Government Claims Board (Board) received your claim on January 06, 2014.

Your claim is accepted only to the extent that it was presented no later than six months after the accrual of the cause of action.

Based on its review of your claim, Board staff believes that the court system is the appropriate means for resolution of these claims, because the issues presented are complex and outside the scope of analysis and interpretation typically undertaken by the Board. The Board will act on your claim at the February 20, 2014 meeting. You do not need to appear at this meeting. The Board's rejection of your claim will allow you to initiate litigation should you wish to pursue this matter further.

If you have questions about this matter, please mention letter reference 120 and claim number G615720 when you call or write your claim technician or analyst at (800) 955-0045 or (916) 491-3700.

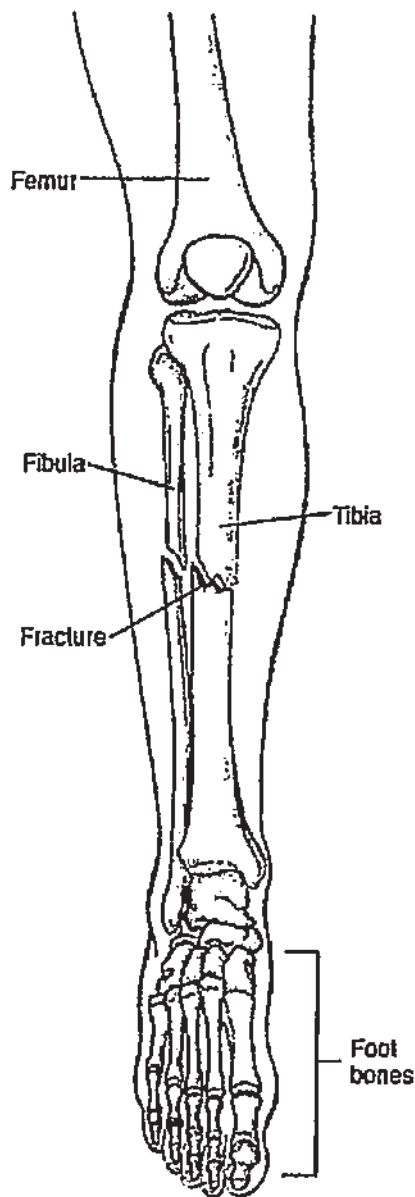
Sincerely,

Government Claims Program
Victim Compensation and Government Claims Board

cc: Corrections and Rehabilitation

Ltr 120 Complex Issue Reject - 6 Month Qualify

EXHIBIT 5



You have a break (fracture) of the leg. A fracture is treated with a splint or cast or special boot. It will take at about 4-6 weeks for the fracture to heal. Surgery may be needed to fix severe injuries.

HOME CARE:

You will be given a splint, cast, boot, or other device to prevent movement at the site of injury.

Unless you were told otherwise, use crutches or a walker and do not bear weight on the injured leg until cleared by your doctor to do so. (Crutches and walkers can be rented at many pharmacies and surgical/orthopedic supply stores).

Keep your leg elevated to reduce pain and swelling. When sleeping, place a pillow under the injured leg. When sitting, support the injured leg so it is level with your waist. This is very important during the first 48 hours.

Apply an ice pack (ice cubes in a plastic bag, wrapped in a towel) over the injured area for 20 minutes every 1-2 hours the first day. You can place the ice pack directly over the splint/cast. Continue with ice packs 3-4 times a day for the next two days, then as needed for the relief of pain and

DEC 27 2013

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CRIME / INCIDENT REPORT

PART C - STAFF REPORT

CDCR 837-C (REV. 10/06)

NAME: LAST ARNETT		FIRST [REDACTED]		MI R	INCIDENT DATE 11/28/2013	INCIDENT TIME 10:03																																				
POST # 231842	POSITION C-4 CONTROL	YEARS OF SERVICE 8 YR. 8 MO.	DATE OF REPORT 11/28/2013		LOCATION OF INCIDENT FCB4, C-SECTION																																					
RDO's F/S	DUTY HOURS 14:00 - 22:00	DESCRIPTION OF CRIME / INCIDENT Fighting Resulting In Use Of Force				CCR SECTION / RULE 3005(d)(1)																																				
YOUR ROLE PRIMARY	WITNESSES (PREFACE S-STAFF, V-VISITOR, O-OTHER)		INMATES (PREFACE S-SUSPECT, V-VICTIM, W-WITNESS) MURRILLO #T-27042 S SIMMONS #P-23096 S																																							
N/A	FORCE USED BY YOU - TYPE OF WEAPON / SHOTS FIRED / FORCE <table border="0"> <tr> <td>PHYSICAL:</td> <td>WEAPON:</td> <td>WARNING EFFECT:</td> <td>LAUNCHER:</td> <td>EFFECT:</td> <td>CHEMICAL / TYPE</td> </tr> <tr> <td><input type="checkbox"/> EXPANDABLE BATON</td> <td><input type="checkbox"/> MINI-14</td> <td></td> <td><input type="checkbox"/> 37 MM</td> <td></td> <td><input type="checkbox"/> OC</td> </tr> <tr> <td><input checked="" type="checkbox"/> RESTRAINT</td> <td><input type="checkbox"/> .38 CAL</td> <td></td> <td><input type="checkbox"/> L8</td> <td></td> <td><input type="checkbox"/> CN</td> </tr> <tr> <td><input type="checkbox"/> TECHNIQUES</td> <td><input type="checkbox"/> 9MM</td> <td></td> <td><input checked="" type="checkbox"/> 40MM</td> <td>(J) NEGATIVE</td> <td><input type="checkbox"/> CS</td> </tr> <tr> <td><input type="checkbox"/> HANDS</td> <td><input type="checkbox"/> SHOTGUN</td> <td></td> <td><input type="checkbox"/> 40 MM MULTI</td> <td></td> <td><input type="checkbox"/> OTHER</td> </tr> <tr> <td><input type="checkbox"/> FEET</td> <td></td> <td></td> <td><input type="checkbox"/> HFWRS</td> <td></td> <td></td> </tr> </table>						PHYSICAL:	WEAPON:	WARNING EFFECT:	LAUNCHER:	EFFECT:	CHEMICAL / TYPE	<input type="checkbox"/> EXPANDABLE BATON	<input type="checkbox"/> MINI-14		<input type="checkbox"/> 37 MM		<input type="checkbox"/> OC	<input checked="" type="checkbox"/> RESTRAINT	<input type="checkbox"/> .38 CAL		<input type="checkbox"/> L8		<input type="checkbox"/> CN	<input type="checkbox"/> TECHNIQUES	<input type="checkbox"/> 9MM		<input checked="" type="checkbox"/> 40MM	(J) NEGATIVE	<input type="checkbox"/> CS	<input type="checkbox"/> HANDS	<input type="checkbox"/> SHOTGUN		<input type="checkbox"/> 40 MM MULTI		<input type="checkbox"/> OTHER	<input type="checkbox"/> FEET			<input type="checkbox"/> HFWRS		
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<input type="checkbox"/> FEET			<input type="checkbox"/> HFWRS																																							
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EVIDENCE COLLECTED BY YOU <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	EVIDENCE DESCRIPTION <input checked="" type="checkbox"/> N/A		EVIDENCE DISPOSITION <input checked="" type="checkbox"/> N/A		BIO HAZARD <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	PPE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																																				
	DESCRIPTION OF INJURY <input checked="" type="checkbox"/> N/A		LOCATION TREATED (HOSPITAL / CLINIC) <input checked="" type="checkbox"/> N/A	FLUID EXPOSURE <input checked="" type="checkbox"/> N/A	SCIF 3301 / 3067 COMPLETED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																																					
REPORTING STAFF INJURED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																																										

NARRATIVE:

On November 28, 2013 at approximately 1003 hours while performing my duties as Facility C building 4 Control Booth Officer, I observed inmates Simmons #P-23096 (FCB1-212u) and Murrillo #T-27042 (FCB4-208u) fighting on the C-Section Upper Tier in front of the shower. Both inmates were hitting each other in the face and upper body area with their fists. I immediately notified Central-Control over the institutional radio "Central Control C-4 Control I have a Code 1, two inmates fighting on the C-Section Top-Tier" I then activated my personal alarm device and ordered both inmates to stop fighting and get down. Simmons and Murrillo ignored my orders to stop fighting. From approximately 30 feet away in an elevated position I utilized my 40mm launcher (#D23952) loaded with one Direct Exact Impact Sponge Round, aiming at Zone-One of inmate Simmons lower left leg, I discharged one round. Due to inmates movement I could not see if the round made contact. I again ordered the inmates to stop fighting. Both inmates ignored my orders to stop fighting. I reloaded my 40mm launcher with one Direct Exact Impact Sponge Round and aiming from approximately 30 feet at Zone-One of Simmons lower left leg discharged one round. Due to inmates movement I did not see round make contact. I again ordered the inmates to stop fighting. Both inmates ignored my orders and continued fighting. I reloaded my 40mm launcher with one Direct Exact Impact Sponge Round and aiming from approximately 30 feet at Zone-One of Simmons lower left leg discharged one round. Again due to inmates movement I did not see round make contact. At this time both inmates complied with my orders, stopped fighting and got down on the floor in a prone position. Responding staff handcuffed both inmates and escorted Murrillo out of the building. Inmate Simmons was carried out of the building on a medical gurney due to an injury from fighting. This concludes my involvement in this incident.

☐ CHECK IF NARRATIVE IS CONTINUED ON PART C1

SIGNATURE OF REPORTING STAFF [Signature]	TITLE Correctional Officer	BADGE # [REDACTED]	ID# [REDACTED]	DATE 11/28/2013
NAME AND TITLE OF REVIEWER (PRINT / SIGNATURE) J. SEBOK CORRECTIONAL SERGEANT	DATE RECEIVED 11/28/2013	APPROVED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	CLARIFICATION NEEDED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DATE 11/28/2013

Distribution: Original: Incident Package Copy: Reporting Employee Copy: Reviewing Supervisor

(26)

XR Tibia/Fibula Left

SIMMONS, KEVIN - PRM10164342

*** Final Report ***

Result Type: XR Tibia/Fibula Left
Result Date: 29 November 2013 18:10 PST
Result Status: Auth (Verified)
Result Title/Subject: XR Tibia/Fibula Left
Performed By/Author: Watanabe MD, Alyssa on 30 November 2013 10:32 PST
Verified By: Watanabe MD, Alyssa on 30 November 2013 10:32 PST
Encounter Info: PRM0003005384379, PRM Center, Inpatient, 11/28/13 -

*** Final Report ***

Reason For Exam
post surgery

PRM Radiology
Left tib-fib 2 views

INDICATION: Pain ORIF, fractures

COMPARE: 11/20/2013

FINDINGS:

There has been placement of an intramedullary rod across the tibial fracture which is now anatomically aligned. There is a new distal fibular plate. The fibula is also anatomically aligned. Skin staples are present. The knee and ankle joints are grossly normal. There appears to be an external splint. There is soft tissue swelling. No abnormal soft tissue densities identified.

IMPRESSION:

Interval ORIF of the distal fibular and tibial fractures which are now anatomically aligned

Dictated By: ALYSSA WATANABE, M.D.

Printed by: Gochioco RN, Matthew C
Printed on: 12/01/13 07:34 PST

Page 1 of 2
(Continued)

N. HA, P.A.
C. Health Care Services
C. Health Care Services

CSP-LAC HC Records - Received

CSP-LAC HC Records - Received

DEC - 6 2013

DEC 02 2013

Confidential Saved 2014-01-07T16:46:57Z

XR Tibia/Fibula Left

SIMMONS, KEVIN - PRM10164342

* Final Report *

D:AW/T: /9697916 / Job ID 10526257
DT:11/30/2013 10:32:07PST/TD:11/30/2013 10:30:08PST DID 3590

This document was electronically signed by ALYSSA WATANABE, M.D. on
11/30/2013 10:32:08PST .

Signature Line

***** Final *****

Dictated by: Watanabe MD, Alyssa
DT/TM: 11/30/2013 10:32 am
Transcribed By: AW
Transcribed DT/TM: 11/30/13 10:30:00
Electronically Signed by: Watanabe MD, Alyssa
11/30/2013 10:32 am

Dictated

Signed DT/TM:

URLRAD

This document has an image

Completed Action List:

- * Order by Lameer MD, Mohamed Z on 29 November 2013 17:05 PST
- * Perform by Schneider, Fred on 29 November 2013 18:10 PST
- * VERIFY by Watanabe MD, Alyssa on 30 November 2013 10:32 PST

Printed by: Gochioco RN, Matthew C
Printed on: 12/01/13 07:34 PST

Page 2 of 2
(End of Report)

W. HA, P.A.
C. Health Care Services
C. Health Care Services

CSP-LAC HC Records - Received

CSP-LAC HC Records - Received

Dec - 5 2013

DEC 02 2013

Confidential Saved 2014-01-07T16:46:57Z

(28)

Affidavit in Support

I am the Plaintiff in the above entitled civil action. I make this Affidavit under penalty of perjury with the knowledge that the Plaintiff does not have a constitutional right to appointment of counsel.

Plaintiff prays to the Court to take into consideration, that he has no knowledge in the matter of law in the Plaintiff heading return address "Acting in pro per" that's what is meant with the help of several other inmates I'm able to file the complaint.

And fact is prison officials are under a legal duty to protect the Plaintiff from assaults by other inmates. Under the 8th Amendment ban on "cruel and unusual punishment" but the Defendant Arnett watched the Plaintiff get assaulted and instead of ordering the inmate to stop!

The Defendant Arnett displayed deliberate indifference and a egregious failure to act but showed reckless disregard and his intolerance to basic fairness as he continued to reload his 40 mm and firing and hitting the Plaintiff (3) three times

And Arnett remarkably showed very bad failure to protect in a racially profiling manner. Not only being negligent while the Plaintiff was being beat on while on his knees. The Defendant maliciously and sadistically "aimed" his 40mm and not just shoot but aim at the Plaintiff left leg and,

shooting the 40mm not one time but (3) three times until he broke Plaintiff's fibula & tibia which required a distal fibular plate-intramedullary rods across the,

1 TIBIAL. AND A DISTAL FIBULAR PLATE WHICH WAS TO REMAIN
 2 IN THE LEG INSIDE THE BONES IN ORDER FOR THE PLAINTIFF
 3 TO WALK. THIS MALICIOUS ACT OF THE DEFENDANT ARNETT WAS
 4 DONE WITH INTENT AND WITH THE PURPOSE OF CAUSING THE
 5 PLAINTIFF TO SUFFER IRREPARABLE INJURY.

6 WITH THESE MALICIOUS CIRCUMSTANCES THE PLAINTIFF
 7 PRESENTS TO THE COURT, UNDER PENALTY OF PERJURY THE PLAINTIFF
 8 PRAYS THE COURT GRANTS HIM FORMA PAUPERIS STATUS AND
 9 WHEN THE ISSUES BECOME COMPLEX AN ATTORNEY BE
 10 APPOINTED TO REPRESENT THE PLAINTIFF OR LEGAL ASSISTANCE
 11 BE PROVIDED IF THE PLAINTIFF IS INDIGENT.

12
 13
 14 4-22-16

Kevin Simmons

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 26
 27 161

28 111

Date/Time: 4/25/2016 6:39:13 AM

CDCR

Verified: _____

Institution: LAC

Inmate Statement Report

Start Date:	10/1/2015	Revalidation Cycle:	All
End Date:	4/25/2016	Housing Unit:	All
Inmate/Group#:	P23096		

THE WITHIN INSTRUMENT IS A CORRECT
COPY OF THE TRUST ACCOUNT MAINTAINED
BY THE OFFICE.
APR 25 2016
CALIFORNIA DEPARTMENT OF CORRECTIONS
BY SCORIN
TRUST OFFICE

Date/Time: 4/25/2016 6:39:13 AM

CDCR

Verified: _____

Institution: LAC

Inmate Statement Report

CDCR#	Inmate/Group Name	Institution	Unit	Cell/Bed
P23096	SIMMONS, KEVIN	LAC	C 002 1	124001

Current Available Balance: \$0.00

Transaction List

Transaction Date	Institution	Transaction Type	Source Doc#	Receipt#/Check#	Amount	Account Balance
No information was found for the given criteria.						

Encumbrance List

Encumbrance Type	Transaction Date	Amount
No information was found for the given criteria.		

Obligation List

Obligation Type	Court Case#	Original Owed Balance	Sum of Tx for Date Range for Oblg	Current Balance
No information was found for the given criteria.				

Restitution List


Restitution	Court Case#	Status	Original Owed Balance	Interest Accrued	Sum of Tx for Date Range for Oblg	Current Balance
RESTITUTION FINE	BA128574	Active	\$10,000.00	\$0.00	\$0.00	\$9,434.49



THE WITHIN INSTRUMENT IS A CORRECT
COPY OF THE TRUST ACCOUNT MAINTAINED
BY THIS OFFICE.

ATTEST: 4-25-16

CALIFORNIA DEPARTMENT OF CORRECTIONS

BY 
TRUST OFFICE